

# MONTANA STATE AUDITOR

MONICA J. LINDEEN  
STATE AUDITOR



COMMISSIONER OF INSURANCE  
COMMISSIONER OF SECURITIES

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## Advisory Memorandum

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**To:** All Health Insurers Licensed in Montana

**From:** MONICA J. LINDEEN - Commissioner of Securities and Insurance,  
Office of the Montana State Auditor [CSI]

**Date:** August 21, 2009

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### Repeal of Franchise Disability Insurance (Senate Bill 141)

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The 2009 Montana Legislature enacted Senate Bill 141 which repeals § 33-22-401, Montana Code Annotated (MCA), franchise disability [health] insurance. The franchise disability insurance statute was enacted in 1947 and allowed an employer to pay all or part of the premiums for employees' coverage, but the employees could be issued the same form of individual coverage, instead of true employer group coverage. The repealed franchise disability insurance statute conflicted with recent Montana law regarding the issuance of small employer group health insurance and federal law regarding employer group health plans, in that when an employer pays any portion of the premium, an employer group health plan is presumed to exist.

As a result of the repeal of § 33-22-401, MCA, no franchise disability policy may be issued or renewed in Montana. For any franchise disability policy currently in force, because the premiums were paid in whole or in part by employers, the group health insurance product withdrawal process described in § 33-22-524, MCA must be followed. Under this process, the insurer must provide at least 90 days notice to every employer, participant, and beneficiary that the franchise disability insurance product will be discontinued and give the option to purchase any other approved group health insurance product being offered by the insurer. Pursuant to § 33-22-526, MCA, the insurer must not discriminate on the basis of health status in regard to eligibility for any group health insurance products offered.

Within 30 days of the date this memorandum, all insurers with approved franchised disability insurance policies must:

1. Provide the Department with a complete list of the form numbers affected and concurrence that these forms are withdrawn; and
2. For any in-force franchise disability insurance policies, provide the Department with:
  - (a) a complete list of the employers and individual participants insured by policy form number, policy name or description, and policy number; and
  - (b) a copy of the notices to be sent to employers and individual participants regarding the product withdrawal and the offer of enrollment in any other major medical health insurance product offered by that insurer.

The Department may oversee insurer's product withdrawal process for in-force franchise disability insurance in order to ensure compliance with Montana code.

The repeal was effective on April 2, 2009.

Please submit the required information and documents to the Forms Bureau of the Department.

Please contact Rosann Grandy, Forms Bureau Chief at (406) 444-2040, if you have questions regarding the form withdrawal process.

Please contact Jennifer Massman, Staff Attorney at (406) 444-2040, if you have questions regarding the legal content of this memo.